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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,084	09/09/2003	Raymond Joseph Reisdorf	TP2686 US NA	1439

23906 7590 05/18/2004

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WILMINGTON, DE 19805

EXAMINER

YAO, SAMCHUAN CUA

ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 05/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center"><b>Office Action Summary</b></p>	Application No. 10/658,084	Applicant(s) REISDORF ET AL.	
	Examiner Sam Chuan C. Yao	Art Unit 1733	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 September 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 6 and 7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 8-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)<br>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)<br>3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/5 &amp; 12/04</u> . | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____<br>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)<br>6) <input type="checkbox"/> Other: _____. |
|---|---|

### DETAILED ACTION

1. This application contains claims directed to the following patentably distinct species of the claimed invention:

Species A: compression operation uses a moving belt and a rotating heated drum;

Species B: compression operation uses a pair of rotating heated belts.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over

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the prior art, the evidence or admission may be used in a rejection under 35

U.S.C. 103(a) of the other invention.

2. During a telephone conversation with Mr. Thomas Steinberg on 05-10-04 a provisional election was made without traverse to prosecute the invention of Species A, claims 1-5 and 8-15. Affirmation of this election must be made by applicant in replying to this Office action. Claims 6-7 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Note: Examiner also required for Counsel to elect between various polymer adhesive compositions (see claims 11-13). However, upon further reading Applicant's disclosure, it would appear that the recited adhesive compositions are not mutually exclusive species. For this reason, this species election requirement has been withdrawn.

3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-5 and 8-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 95/14806 A1 in view of either Scott et al (US 4,798,644), Reith (US 4,939,036), and optionally further in view of Cross (US 4,731,143).

With respect to claims 1 and 3, WO '806 discloses a process of making a carpet, the process comprises a) providing a primary backing tufted with nylon yarns; b) extruding a molten ethylene copolymer adhesive having 8-25 wt% of ester groups, 1-20 wt% of carboxylic acid groups, wherein the combined ester and carboxylic acid groups should not comprise more than 35 wt% of the ethylene copolymer (i.e. the copolymer comprises at least 65 wt% of ethylene) onto an underside surface of the primary backing; c) compressing the tufted primary backing and the molten adhesive at a pressure of at least of 2 psi for a time range of 1-10 seconds *"to encapsulate the bases of the yarn tufts"*; and, d) cooling the tufted primary backing and the ethylene adhesive to solidify the adhesive (abstract; page 2 line 31 to page 3 line 37; page 4 line 12 to page 6 line 29; page 9 line 8 page 10 line 24; claims 1-7).

WO '806 does not teach using a drum laminator comprising a moving belt for compressing a tufted primary backing and an ethylene adhesive. However, it would have been obvious in the art to use a drum laminator comprising a moving belt for compressing a tufted primary backing and an ethylene adhesive together, as such is conventional in the art of making carpets as exemplified in the teachings of Scott et al (col. 5 lines 11-28; figure 1) and Reith (abstract; col. 11 lines 4-14).

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With respect to claims 2 and 9, see page 9 lines 8-34 of the WO '806 patent and figure 1 of the Scott et al patent. As for claim 9, it is a notoriously common practice in the art to provide a reinforcing grid between a tufted primary backing and a secondary backing.

With respect to claims 4-5, see column 5 lines 12-28 of the Scott et al and column 3 lines 24-31 of the Cross patent. Note: the recited operating conditions are taken to be result effective variables routinely optimized by those versed in the art.

With respect to claim 8, the recited extrusion temperature is also taken to be result effective variable. An operating extrusion temperature clearly depends on a number of factors such as polymer viscosity, polymer melting range, etc.

With respect to claims 10-11 and 14-15, see page 6 lines 4-11 (ester: n-butyl (methacrylate or acrylate); carboxylic acid: methacrylic or acrylic acid). As for claims 14-15, see page 7 full paragraph 1. The recited melt index in these claims is reasonably expected to flow naturally from an adhesive taught by WO '806 in view of the similarity of the adhesive compositions.

With respect to claims 12-13, see page 3 lines 10-18 and page 6 lines 30-39 of the WO '806. The copolymer compositions recited in these claims are taken to be conventional in the art.


### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sam Chuan C. Yao whose telephone number is (571) 272-1224. The examiner can normally be reached on Monday-Friday with second Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Sam Chuan C. Yao  
Primary Examiner  
Art Unit 1733

Scy  
05-13-04